


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

**FILED**  
JUL 20 2009  


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UNITED STATES OF AMERICA,

Plaintiff,

-vs-

THOMAS BRYAN SCARES THE HAWK,

Defendant.

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CR 09-30019 (01)

AMENDED  
ORDER GRANTING  
CONTINUANCE

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Defendant filed a second motion to continue trial and related pretrial deadlines, Doc. 32, and defendant's second consent to waiver of time limits, Doc. 33. The motion to continue states that the government, through AUSA Jay Miller, has no objections to the continuance. The defendant personally joins in the motion.

The Court finds that the ends of justice are served by continuing this trial which ends outweigh the best interests of the public and the defendant in a speedy trial. Despite the exercise of due diligence, defense counsel requires additional time to properly investigate and prepare for trial. Based on the record herein,

IT IS ORDERED:

(1) The second motion to continue trial and related pretrial deadlines, Doc. 32, is granted.

(2) All motions, other than motions in limine and motions for continuance, shall be filed and served on or before August 10, 2009. Opposing counsel shall respond thereto on or before August 17, 2009. All such motions shall be heard by the Magistrate Judge at such time as set after consultation with counsel.

(3) All motions for continuance will be considered by the Court when the defendant has filed a written consent to the continuance and the opposing party has filed a response.

(4) All motions in limine shall be filed at least ten (10) working days before trial.

(5) Counsel shall submit directly to the Court, the Clerk of Courts and to opposing counsel by no later than 4:00 P.M. on the business day before trial a list of all witnesses and proposed exhibits with a copy of each exhibit showing the number of each exhibit as marked. Requests for subpoenas shall be filed no later than fourteen (14) working days before trial. If jury selection takes place with the jury to return at a later date, the deadline shall be 4:00 o'clock P.M. on the business day before jury selection.

(6) October 16, 2009, is hereby set as the deadline for submission to the Court and filing of any proposed plea agreements and the factual basis statement and motions to enter oral pleas.

(7) The jury trial is continued to Tuesday, November 3, 2009, at 9:00 o'clock A.M. in the Federal Courtroom of the U.S. Courthouse in Pierre, South Dakota.

(8) All proposed jury instructions shall be submitted to the Court not later than ten working days before trial. A copy of each proposed instruction showing source and authority notes shall be furnished to the Court and other counsel. The Court has assembled basic instructions used in all criminal cases defining duties of jurors, burden of proof, basic definitions and other matters. Therefore, the parties should only submit those instructions which are related to the specific matters in issue in this case.

(9) The period of delay resulting from such continuance is excluded in computing the time within which the trial of the offense must commence. 18 U.S.C. § 3161(h)(8)(A).

Dated this 17<sup>th</sup> day of July, 2009.

BY THE COURT:

  
CHARLES B. KORNMANN  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 

DEPUTY

(SEAL)